in that act, contrary to the contract clause of the Federal Constitution (Art. I, § 10). *Held,* assessment should be sustained. *People ex rel. Troy Union Ry. Co.* v. *Mealy* et al. (1920), 41 Sup. Ct. Rep. 17.

The courts are not inclined to view claims for exemption from taxation favorably. *Tucker* v. *Ferguson,* 89 U. S. 527. And will not find a contract in a statute granting such exemption unless there is *quid pro quo. Ry. Co.* v. *Supervisors,* 93 U. S. 596. To the contrary, where it appears that the party exempted furnished no consideration, the exemption is simply a promise of a gratuity, spontaneously made, and subject to repeal at the pleasure of the legislature. *Christ Church* v. *Phila. County,* 65 U. S. 300. Mere action in reliance upon the statute will not be held good consideration. *Ry. Co.* v. *Powers,* 191 U. S. 379. But even where a consideration has been given, an express reservation of power to repeal, in the act itself or in the state constitution, will give the legislature the right to withdraw the privilege at will. *Greenwood* v. *Freight Co.,* 105 U. S. 13; *Calder* v. *Michigan,* 218 U. S. 591. A grant of privileges contained in a corporate charter stands upon a somewhat different footing. In such a case the precedent of *Dartmouth College* v. *Woodward,* 4 Wheat. 518, precludes the court from holding that a grant of exemption is *nudum pactum. Owensboro* v. *Telephone Co.,* 230 U. S. 58. The decision in the principal case rests upon a solid foundation in that the relator furnished no consideration for the exemption, and furthermore, that the right of repeal was reserved in Art. VIII, § 1 of the Constitution of New York.

CRIMINAL LAW—WAIVER OF CONFRONTATION.—During the progress of the defendant's trial on the charge of rape the state offered in evidence, without objection on the part of the accused or his counsel, the testimony of the prosecutrix as taken before the grand jury. Counsel for the state and for the defendant were present in the grand jury room when the evidence was given, and both agreed to the use of the testimony at the trial. *Held,* the defendant had waived his constitutional right to be confronted by the witness, notwithstanding the fact that the stipulation had been made by an attorney appointed by the court to represent the accused. *Denson* v. *State* (Ga., 1920), 104 S. E. 780.

By the federal constitution and the constitutions of most of the states, in a criminal proceeding the accused has a right to be confronted with the witnesses against him. 1 WIGMORE EV., Sec. 1396. The authorities are practically uniform on the proposition that this right of confrontation is a personal privilege which the accused can waive. *Smith* v. *State,* 145 Wis. 612, 130 N. W. 461; *State* v. *Williford,* 111 Mo. App. 668, 86 S. W. 570; 2 BISHOP, NEW CRIMINAL PROCEDURE [2d Ed.], Sec. 1205; 16 C. J. 840. The waiver may be either by express consent, as where the accused agrees to the reading of depositions taken elsewhere; by failure to assert the right in time; or by conduct inconsistent with a purpose to insist on it. *State* v. *Mitchell,* 119 N. C. 874, 25 S. E. 873; CHAMBERLAYNE, EV., Sec. 462. According to the great weight of authority an express agreement or stipulation made by counsel for

an accused, in reference to a waiver of the right of confrontation, has the same effect as if made by the defendant himself. *Rosenbaum* v. *State,* 33 Ala. 354. And as Cooley, J., pointed out in *People* v. *Murray,* 52 Mich. 288, 17 N. W. 843, it makes no difference whether the stipulation is made by counsel employed by the accused or by counsel appointed by the court for the accused. Texas alone seems to hold that the waiver, to be binding, must be made by the accused himself. *Allen* v. *State,* 16 Tex. App. 237. The latter tribunal seemingly forgets that the attorney is the accused's personal representative at the trial and acts for him; it also overlooks the fact that even though the accused may have had no voice in the selection of the appointed counsel, he could have objected in due time to the stipulation and waiver. In the instant case he offered no objection until after the verdict was rendered against him. Logically, the accused here can hardly complain, considering the further fact that his counsel had cross-examined the witness whose testimony was read at the trial. "The main and essential purpose of confrontation is to secure the opportunity of cross-examination." 2 WIGMORE, Ev., Sec. 1395. This is the primary right the constitutional provision mainly guarantees, and once this opportunity and right are had and enjoyed by the accused he cannot claim that he was denied due process of law.

DEEDS—DELIVERY—GRANTOR RETAINING POSSESSION.—The defendants claimed land under an instrument, signed, sealed and acknowledged by the grantor. The latter, during his life, retained possession of the land and of the instrument; he gave the latter to no one at any time, and he made no declarations regarding it, its existence being unknown until after his death, when it was found among his papers. In an action by the heirs of the grantor for partition, it was held that there had been no valid delivery of the instrument. *Mumpower* v. *Castle* (Sup. Ct. App., Va., 1920), 104 S. E. 706.

The defendants claimed under an instrument, signed, sealed and acknowledged by the grantor (testator), who in his will spoke of land which he had "deeded" to the defendant, and said that the deed would be found with the will. Apparently, the deed was signed and acknowledged some time after the will was made, for it bore a later date than the will. After the testator's death it was found, signed and acknowledged, along with the will. In a suit by two grandchildren of the testator for partition, it was *held* that there had been a valid delivery of the deed. *Payne* v. *Payne* (Sup. Ct. App., Va., 1920), 104 S. E. 712.

Delivery of a deed, as the court points out, is essentially a matter of intention on the part of the grantor to consummate the transaction as far as he is concerned; i. e., to have the instrument operate presently as a conveyance. The cases above, recognizing that manual transfer of possession is unnecessary, nevertheless hold that even where an instrument is signed, sealed, and acknowledged there must be some other circumstance or word or act of the grantor showing an intention on his part to have the instrument operate presently as a conveyance in order to constitute a valid delivery. The weight of authority supports this doctrine that delivery is an affirmative